



Federal Update for August 11 - 15, 2014



US Congressman John Kline: Addressing Accountability at the VA

As a 25-year veteran of the U.S. Marine Corps, one of the reasons I came to Congress was to ensure promises made to our veterans are promises kept. I was pleased the President signed into law important bipartisan legislation I supported to ensure our veterans have access to the care they have earned. The bill increases veterans' access to health care in the wake of the Veterans Affairs (VA) Department scandal involving falsified appointment records that hid long wait times, allowing veterans to obtain health care at non-VA facilities and it increases the VA's capacity to provide services by hiring more doctors and nurses. The bill also empowers the Secretary of the VA to fire failing executives within the VA system. I have long advocated for shorter wait times at the VA, and I will continue to push for greater reforms at the VA so we can ensure we keep our promises to America's heroes.

NDAA 2015 Update ► Committee Approves Defense Money Bill

The Senate Appropriations Committee has approved a fiscal 2015 defense money bill that fully supports the Senate Armed Services Committee's earlier embrace of key military compensation curbs sought by the Joint Chiefs of Staff. The Senate Committee bill rejects administration proposals that would restructure and dramatically consolidate TRICARE plans and steeply raise fees. The Senate measure also rejects the Pentagon's proposal to cut \$200 million from the annual subsidy for commissaries. Committee action averts proposals that would have forced some commissaries to cut hours of operation and a few even to close. But Senate appropriators have shaped a funding bill that supports DoD's proposals concerning pay raises, basic allowance for housing and pharmacy co-pays.

- **Pay Cap:** A second straight cap of 1 percent on the annual military pay raise. A 1.8 percent increase is needed this January to keep pace with private sector wage growth.
- **BAH Cap:** A dampening for three years of yearly increases to Basic Allowance for Housing which is paid to a million service members living off base in the United States. The goal is to slow BAH adjustments until the allowances cover only 95 percent of local rental costs. Current BAH rates cover 100 percent of members' local rental costs at stateside assignments. Current rates also cover average renter's insurance, but that would end, just as the Joint Chiefs propose, if the Senate defense bill becomes law.
- **Higher Drug Co-Pays:** Pharmacy co-payments would increase for beneficiaries who have prescriptions filled at retail outlets, or choose to use brand name medicines instead of less costly generic drugs. This change largely would impact military retirees and their families.

The goal is to “fully incentivize” use of TRICARE mail order and also generic drugs to save on program costs. By changing behavior, and also by collecting higher fees, the Department of Defense estimates it would save \$829 million in 2015. The Congressional Budget Office estimates savings of \$4.4 billion over five years. The prescription drug plan calls for the following changes:

- Prescriptions filled at base pharmacies would remain free. But the current \$17 co-pay at retail outlets for a 30-day supply of a brand name drug on the military formulary would jump to \$26 in January, and by \$2 more annually over seven years to reach \$40 by 2022 and then \$45 by 2024.
- Beneficiaries now face a co-pay of \$44 to get non-formulary drugs at local pharmacies. Under the plan, non-formulary drugs could only be obtained through home delivery and the co-pay for a three-month supply of mail order pills would climb from \$43 to \$51 in January and increase annually thereafter to reach \$66 by 2017 and \$90 by 2024.
- Co-pays for brand name drugs on the formulary, if filled by mail, would double from \$13 to \$26 next year, and increase by \$2 to \$4 annually to reach \$34 by 2019 and \$45 by 2024. Generic drugs would continue to be available at no charge by mail order until 2019 when a co-pay would be set at \$9 for a 90-day supply. The current \$5 co-pay for generic drugs at retail would be increased by \$1 a year, starting in 2015, and reach \$14 in 2024.

VA Congressional Fix Update ► VA Reform Bill Compromise Reached

Weeks of simmering, closed-door disagreement in Congress over how to fix the Department of Veterans Affairs erupted into a public political fight 24 JUL that threatened to derail any chance of a final reform bill this summer. House and Senate leaders broke from negotiations aimed at compromise and instead unveiled dueling bills that differed widely on how much to spend on the deeply dysfunctional federal agency. The moves led to both chambers lobbing allegations of “moving the goal post” and thwarting the democratic process. A month of negotiations had not bridged the divide between House veterans affairs chairman Rep. Jeff Miller (R-FL), who remains skeptical that more spending will help the VA, and his counterpart Sen. Bernie Sanders (I-VT), who believes the only fix includes spending billions on hiring more medical staff.

However, in a dramatic legislative turnaround, the chairmen of the House and Senate Veterans’ Affairs committees on 28 JUL unveiled plans for a \$17 billion compromise VA reform bill that funds the hiring of more clinicians, expands private care options and makes it easier to fire Veterans Affairs Department executives. The deal, if approved, gives lawmakers a surprising success story to take back to their home districts as Congress begins its extended, pre-election legislative break. The comprehensive veterans measure is one of only a few significant bills to become law this year, and comes after weeks of promises that leaders from both parties would move quickly to address recent VA scandals. “This bill makes certain that we address the immediate crisis of veterans being forced onto long waiting lists for health care,” said Sen. Sanders. “It strengthens VA so that it will be able to hire the doctors, nurses and medical personnel it needs so we can permanently put an end to long waiting lists.”

The price tag includes \$5 billion requested by VA officials to hire clinicians and renovate underused VA spaces, in an effort to address long-term problems with veterans waiting for care. But another \$10 billion is targeted for a short-term fix to that problem: a dramatic expansion of private-care options for veterans who face waits of 30 days or longer for appointments, or who live more than 40 miles from the closest VA health facilities. It will also pay for leases at 27 new medical

facilities in 18 states and Puerto Rico, to give more VA options to veterans. The measure also includes language making it easier for senior VA officials to be fired by the department secretary, a proposal that has drawn strong support from lawmakers and outside critics. Over the last three months, dozens of VA officials have been accused of gaming records to cover up facility problems or protect performance bonuses. Lawmakers have decried a corrosive culture within the bureaucracy, and demanded more accountability throughout the department. Under the compromise, executives fired for mismanagement or poor performance would have a chance to appeal the move, and would be guaranteed an answer within a month.

Both Miller and Sanders said they are confident the legislation can be approved by both chambers this week and sent to the president to become law within days. The House overwhelmingly passed a \$17 billion emergency bill 30 JUL that brings comprehensive reform of the troubled Department of Veterans Affairs health care system one step closer to reality. The 420-5 vote shifted all attention toward the Senate, where a floor vote had yet to be scheduled with only days left before Congress leaves for its August recess. The House is scheduled to start its summer break 31 JUL. The Senate leaves 1 AUG. The Senate also had on its agenda for the week the confirmation vote for Bob McDonald to become the next VA secretary. The two moves combined would give the department a new leader and billions in new funding, to go along with the mandate from lawmakers to restore public trust in the agency. [Source: NavyTimes | Leo Shane | Jul 28, 2014 ++]

Honor Flights Update ► House Passes H.R.4812

The House of Representatives recently passed H.R.4812, the Honor Flight Act. The bill would codify the process by which the Transportation Security Administration (TSA) provides expedited and dignified passenger screening services for veterans traveling to visit war memorials built and dedicated to honor their service in Washington D.C. Expedited screening services will save veterans' time and show them their proper respect and appreciation. "The 'Honor Flight Act' is a measure that seeks to pay a debt of gratitude to a group of Americans who were willing to make the ultimate sacrifice to ensure that we are able to enjoy the freedoms that we have today," said Cedric Richmond (D-LA). "Although we may never be able to fully repay our veterans for their bravery, our national memorials bring into focus their lasting contribution and their impact on American history. It just makes

sense that they are treated with the reverence and gratitude they deserve when visiting memorials erected in their honor.” The Honor Flight Act of 2014 is supported by the Honor Flight Network, a non-profit organization that works with airlines and other non-profits to transport American veterans to Washington, D.C., to visit memorials built and dedicated in honor of their service. On 23 JUL the bill was received in the Senate, read twice, and referred to the Committee on Commerce, Science, and Transportation.

In the interim the nation’s oldest living female World War II veteran has finally made it to Washington to see the monuments and memorials. Lucy Coffey, now 108, is a veteran of the Women’s Army Auxiliary Corps during World War II. The corps took her to Japan before she came home and settled in San Antonio. This weekend, Coffey got to make another trip, this time to see the monuments of the nation’s capital. She flew first-class from San Antonio on a trip arranged in part by an Honor Flight group in Texas. On 26 JUL Coffey visited the World War II Memorial and the Women in Military Service for America Memorial at Arlington National Cemetery before heading to the White House for a tour. [Source: Rep. Cedric Richmond (D-LA) Press Release Jul 24, 2014 ++]

VA Whistleblowers Update ► S.2606 & H.R.4197

Members of Congress want to fire more federal employees. From tax delinquents to Veterans Affairs Department senior executives to workers who do not solve audited problems, lawmakers have made clear they think more feds deserve pink slips. The latest measure S.2606, introduced by Sen. Claire McCaskill (D-MO) would require VA to fire employees found guilty of retaliating against whistleblowers. Currently, retaliation is a fireable offense, though lesser punishments such as fines and reprimands are also acceptable responses. “Whistleblowers are critical to our efforts to guard against waste and misconduct in government -- and in the case of the VA, against the compromise of patient care,” said McCaskill, a consistent whistleblower champion. “This bill requires the firing of any VA employee found to have retaliated against a whistleblower -- no ifs, ands, or buts -- and I’m hopeful it will be a step in the right direction to change the culture of the VA and ensure our veterans are receiving the highest level of care.”

Federal whistleblowers will be able to appeal their cases for the next three years in any U.S. Court of Appeals with jurisdiction under bipartisan legislation the House passed earlier this week. The All Circuit Review Extension Act (H.R.4197) extends for three extra years a provision in the 2012 Whistleblower Protection Enhancement Act that enabled whistleblowers to appeal Merit Systems Protection Board decisions to any U.S. Court of Appeals with jurisdiction. Prior to that, the U.S. Court of Appeals for the Federal Circuit had the sole jurisdiction over such cases. The provision in the 2012 law expanding the options for judicial review was only for two years. "The pilot program authorizing whistleblowers to file appeals in U.S. Court of Appeals with jurisdiction has proven to be one of the act's most vital, and potentially far-reaching, provisions," said Rep. Gerry Connolly (D-VA), a co-sponsor of H.R. 4197. "Prior to this pilot program, federal whistleblowers were at the mercy of the Federal Circuit, which had ruled against whistleblowers in an astonishing 226 out of 229 cases since 1994."

Whistleblowers have played a pivotal role in the large-scale scandal that has engulfed the Veterans Affairs Department over improper scheduling practices, delays in providing vets with medical care, and mishandled paperwork at various VA facilities across the country. There also have been allegations of retaliation against VA whistleblowers. The 2012 law included several new protections for employees who blow the whistle on waste, fraud and abuse within the government. The Make-It-Safe Coalition, which includes dozens of groups that advocate for whistleblower protections, said the so-called all circuit review was the Whistleblower Protection Enhancement Act's "most significant structural reform." The Government Accountability Office is required to assess the law's effectiveness four years after enactment.

The group said in the first year of the all circuit review pilot program, there were only three whistleblower cases outside of the Federal Circuit, indicating that the change was not flooding other courts with extra work. "Whistleblowers offer essential assistance to congressional oversight efforts to investigate waste, fraud and abuse in the federal government," said House Oversight and Government Reform Committee Chairman Darrell Issa (R-CA), who praised the bill's sponsor, Maryland Democrat and committee Ranking Member Elijah Cummings. "Unfortunately, however, some would-be whistleblowers have been dissuaded from bringing allegations to light due to previous loopholes in existing law and misinterpretations of congressional intent by the Federal Circuit."

The VA is currently facing dozens of accusations of whistleblower retaliation; the independent Office of Special Counsel is currently reviewing about 60 such cases in light of employees blowing the whistle on patient scheduling issues and data manipulation. The new VA administration has promised to eradicate any retaliation against those who shed the light on agency shortcomings. Acting VA Secretary Sloan Gibson has said that “intimidation or retaliation -- not just against whistleblowers, but against any employee who raises a hand to identify a problem, make a suggestion, or report what may be a violation in law, policy, or our core values -- is absolutely unacceptable. I will not tolerate it in our organization.” McCaskill recently introduced a bill with Sen. Kelly Ayotte (R-NH) to allow VA to rescind bonuses paid to employees found guilty of manipulating patient data. [Source: GovExec.com | Kellie Lunney & Eric Katz | Jul 17, 2014 ++]

Below is a Summary of Veteran Related Legislation Introduced in the House and Senate since the Last Bulletin was Published

- **H.R.5094: Recoup VA Bonus Authorization.** A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to recoup certain bonuses or awards paid to employees of the Department of Veterans Affairs. Sponsor: Rep Miller, Jeff [FL-1] (introduced 7/14/2014)
- **H.R.5097: Local Care for Veterans Act.** A bill to direct the Secretary of Veterans Affairs to allow certain veterans to participate in the Patient-Centered Community Care program. Sponsor: Rep Boustany, Charles W., Jr. [LA-3] (introduced 7/14/2014)
- **H.R.5112: Vietnam Era SE Asia Merchant Marine VA Eligibility.** A bill to provide eligibility for veterans benefits for individuals who served in the United States merchant marine in the Southeast Asia theater of operations during the Vietnam Era. Sponsor: Rep Bishop, Sanford D., Jr. [GA-2] (introduced 7/15/2014)
- **H.R.5115: Rural Veteran Access to Care Act.** A bill to amend title 38, United States Code, to improve the beneficiary travel program of the Department of Veterans Affairs. Sponsor: Rep McAllister, Vance M. [LA-5] (introduced 7/15/2014)
- **H.R.5131: Access to Care and Treatment Now for Veterans Act.** A bill to direct the Secretary of Veterans Affairs to reimburse non-Department of

Veterans Affairs medical providers for the provision of certain hospital care and medical services to veterans, and for other purposes. Sponsor: Rep Gabbard, Tulsi [HI-2] (introduced 7/17/2014)

- **H.R.5157: Vet Education Program Requirements VA Waiver Authorization.** To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to waive certain requirements relating to the approval of programs of education for purposes of the educational assistance programs of the Department of Veterans Affairs. Sponsor: Rep Titus, Dina [NV-1] (introduced 7/17/2014)
- **H.R.5172: POW Accountability Act.** A bill to direct the Secretary of Veterans Affairs to review the list of veterans designated as former prisoners of war, and for other purposes. Sponsor: Rep Johnson, Bill [OH-6] (introduced 7/23/2014)
- **H.R.5193: VA VISN Delayed Payment Outreach.** To direct the Secretary of Veterans Affairs to conduct outreach to veterans regarding the effect of delayed payments by the Veterans Integrated Service Networks and to direct the Secretary to submit to Congress an annual report regarding such delayed payments. Sponsor: Rep Boustany, Charles W., Jr. [LA-3] (introduced 7/24/2014)
- **S.2606: Terminate DVA Whistleblower Retaliators.** A bill to require the termination of any employee of the Department of Veterans Affairs who is found to have retaliated against a whistleblower. Sponsor: Sen McCaskill, Claire [MO] (introduced 7/15/2014)
- **S.2607: Assisted Living Pilot Program for Vets with TBI Extension Act.** A bill to extend and modify the pilot program of the Department of Veterans Affairs on assisted living services for veterans with traumatic brain injury, and for other purposes. Sponsor: Sen Booker, Cory A. [NJ] (introduced 7/15/2014)
- **S.2654: DVA Outreach on Delayed Payment Effects.** A bill to require the Secretary of Veterans Affairs to conduct outreach to veterans regarding the effect of certain delayed payments by the Secretary, to require the Secretary to submit to Congress an annual report regarding such delayed payments, and for other purposes. Sponsor: Sen Landrieu, Mary L. [LA] (introduced 7/24/2014) [Source: <http://www.loc.gov> & <http://www.govtrack.us/congress/bills> Jul 28, 2014 ++]

Tricare Mental Health Care Update ► Chose of Counselor Types

The TRICARE mental health benefit just got bigger. Beneficiaries can now choose between two qualified mental health counselor types: independently practicing TRICARE Certified Mental Health Counselors (TCMHC) and Supervised Mental Health Counselors (SMHC). TRICARE will authorize TCMHCs as independent providers who meet specific qualification criteria. They must have a master's degree from a mental health counseling program accredited by the Council for Accreditation of Counseling and Related Education Programs (CACREP) and pass the National Clinical Mental Health Counseling Examination (NCMHCE) by Jan. 1, 2017. TCMHCs can independently treat TRICARE beneficiaries but SMHCs will continue to practice under the referral and supervision of TRICARE-authorized physicians.

Some beneficiaries may worry they won't be able to continue seeing their current mental health care provider under this new guidance. "This does not have to be a concern," says Patricia G. Moseley, Ph.D., military child and family behavioral health senior policy analyst at the Defense Health Agency. "TRICARE will not phase out SMHCs but instead will continue to authorize them as TRICARE providers indefinitely. So beneficiaries who are who are currently receiving treatment from a mental health counselor can continue their care with their existing provider whether that is an SMHC or a TCMHC."

The Defense Health Agency is tasked with making military medicine stronger, better and more relevant for the future. This change moves us one step closer to that goal, ensuring the availability of well-qualified, independent providers for their beneficiaries. For more information about TRICARE mental health coverage, visit <http://www.tricare.mil/mentalhealth>. [Source: TRICARE Benefit Update Jul 18 2014 ++]

TRICARE Prime Update ► FY 2015 Enrollment Fees

TRICARE Prime Enrollment Fees for Fiscal Year 2015 TRICARE Prime enrollment fees are changing for fiscal year 2015 (Oct. 1, 2014–Sept. 30, 2015) for retired service members and their eligible family members, survivors and former spouses. The annual fee for an individual beneficiary will be \$277.92 and the annual fee for beneficiary family coverage will be \$555.84. There are no TRICARE

Prime enrollment fees for active duty service members and active duty family members. For details or more information, visit www.tricare.mil/costs. [Source: TRICARE Health Matters (West) Issue 3: 2014 ++]

Traumatic Brain Injury Update ► Sleeping Disorder Treatment

Doctors and experts at the Defense and Veterans Brain Injury Center want health care providers to try treating sleep disorders caused by traumatic brain injury with some common sense such as a quiet bedroom and staying away from coffee or energy drinks at bedtime. The recommendations mark a shift away from relying solely on medication. In a briefing 16 JUL, Dr. Therese West recommended that health care providers first offer behavioral therapy before prescribing sedatives, antihistamines or benzodiazepines to troops and veterans. West is a subject matter expert at the Defense and Veterans Brain Injury Center (DVBIC). "We want to make sure that providers are implementing the first line treatments of the stimulus control and sleep hygiene prior to medication," West said. Stimulus control includes removing electronics from the bedroom and creating a proper sleep environment. Sleep hygiene practices include avoiding caffeine and exercising regularly.

According to the DVBIC, more than 300,000 service members have endured traumatic brain injuries since 2000. Sleep disorders are their second most frequent complaint after headaches, West said. Recommendations made public Wednesday were the result of research conducted by military personnel, civilians, and academic experts after frequent complaints by service members about sleep disturbances. Capt. Cynthia Spells, the DVBIC's director of clinical affairs, works closely with service members and veterans to identify critical health issues and develop solutions. At Fort Stewart, Georgia — Spells' previous post before her arrival at the DVBIC — she said, troops were returning with injuries such as mild traumatic brain injury and continuing to exhibit symptoms. They were "not the same" as they were before their concussions, Spells said. Research shows improper sleep could exacerbate TBI symptoms and prevent proper rehabilitation, she added.

The common-sense recommendations made in the DVBIC's clinical guidelines to treat sleep disturbances are not exclusively for service members and military

health providers. Spells said the guidance can be used in the medical community to treat anyone with sleep complaints. “All of us tend to take sleep for granted and how important it really is to our day-to-day functioning and our productivity until we don’t have access to it, or not enough,” Spells said. The DVBIC plans to collaborate with the military as well as the U.S. Surgeon General’s office to incorporate the recommendations into the broader health care system. [Source: Medill News Service | Katie Schubauer and Taylor Thornton | Jul 17, 2014]

Disney’s Armed Forces Salute Update ► Extended thru SEP 2015

The House of Mouse has extended its magic for troops and military family members. Disney’s popular Armed Forces Salute was set to expire soon, but Magic Kingdom officials have announced their deep discount program will continue savings through September 2015 for its resorts in Florida and California. Tickets have gone up, because their price is based on their new gate price. the overall discounts remain largely unchanged. For example, while a Four-Day Park Hopper Pass at Orlando’s Walt Disney World now costs most people \$354, military visitors will still pay half that at \$177. The current cheaper military ticket prices are still in effect for any trips before Sept 28, 2014. So, if you’re still thinking about trip this summer, that same 4-day Park Hopper will cost only \$169. The full range of ticket options can be viewed at <http://www.militarydisneytips.com/Disney-Armed-Forces-Salute.html>. Not eligible for these ticket discounts are: unaccompanied dependents (children), prior service members who did not retire, foreign military members without US issued CAC, DoD civilians, and other service connected disabled who are not DAVPRM or 100%.

Room discounts at Disney resorts also remain the same at 30 percent to 40 percent off regular prices under the new program. There are some restrictions and block-out dates, so be sure to read the fine print when planning your vacation. There are also a limited number of rooms available at the military discount prices, both by resort and room type, so the earlier you book the better. Eligibility extends to:

- Current military Active, Reserve, National Guard, and Coast Guard members.

- Retired Active, Reserve, National Guard, and Coast Guard personnel.
- 100% Service Connected Disabled with the DAVPRM code on their military issued ID.
- Spouses or Unremarried Widows of the above, if the member is unable to go. (**Note:** The Disney Armed Forces Salute benefit is for the member only. While spouses may use their member's benefit, they are not entitled to the benefit themselves and cannot stack their use on top of the members. Non-spouse dependents are not eligible).
- Foreign partners/Coalition partners stationed at a US base are eligible. They must have a permanent US Military issued ID (CAC card with blue stripe).

[Source: NAUS Weekly Update Jul 25, 2014 ++]